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## Appeal Decision

Site visit made on 5 June 2018

**by F Rafiq BSc (Hons), MCD, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23<sup>rd</sup> July 2018**

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### **Appeal Ref: APP/X5210/W/17/3180683**

### **Pavement outside 19 Camden High Street, London, NW1 7JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
  - The appeal is made by Mr Tom Fisher (Euro Payphone Ltd) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/2485/P dated 22 March 2017 was refused by notice dated 21 June 2017.
  - The development proposed is the installation of a telephone kiosk on the pavement.
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### **Decision**

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance, of the installation of a telephone kiosk on the pavement at Pavement outside 19 Camden High Street, London, NW1 7JE in accordance with the terms of the application Ref 2017/2485/P, dated 22 March 2017, and the plans submitted with it.

### **Procedural Matters**

2. I have taken the description of development from the decision notice as this more accurately describes the proposal subject of this appeal. Reference has been made by various parties to there not being sufficient information to assess the proposal. The Council proceeded to determine the prior approval application and I am also satisfied, based on the submitted written information, location plan and kiosk drawing, that there is adequate information to proceed to determine it.
3. As an electronic communications code operator, the appellant benefits from deemed planning permission for a proposed payphone kiosk (also known as a public call box) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), subject to prior approval by the local planning authority of siting and appearance. The appellant applied to the Council on that basis. The Council determined that prior approval was required and refused for the siting and appearance of the telephone kiosk.
4. The Council have made reference to Core Strategy Policies CS5, CS11, CS14 and CS17 and Policies DP16, DP17, DP21, DP24 and DP25 of the Council's Development Policies. The principle of development is established by the

GPDO and prior approval relating to paragraph A.3 of Schedule 2, Part 16, Class A of the GPDO includes no requirement that regard be had to the development plan. The provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. I, therefore, take account of the policies of the development plan and (any related guidance including policies in emerging plans) in so far as they are a material consideration relevant to matters of siting and appearance.

5. The National Planning Policy Framework (Framework) deals with supporting high quality communications infrastructure, including applications for prior approval, and requires that local planning authorities must determine applications on planning grounds. As the principle of development is established by the GPDO, considerations such as need for the telephone box are not a relevant matter.
6. The appeal site is in a Conservation Area and the statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The Government's approach in the Framework states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.
7. Reference has been made to the lack of details regarding advertising. The construction of a kiosk and the display of advertisements are distinct and separate matters requiring different applications. The appeal application relates to a telephone kiosk only and not any advertisement consent that may otherwise be required. I have determined the appeal on that basis.

### **Main Issue**

8. The main issue is whether or not approval should be given in respect of the siting and appearance of the development, having regard to the character and appearance of the area, to whether it would preserve or enhance the character and appearance of the Camden Town Conservation Area and the effect upon highway and pedestrian safety.

### **Reasons**

9. The appeal proposal would be situated outside No. 19 Camden High Street in a busy shopping street. Camden High Street has been identified as forming part of the Transport for London's Road Network. The site is within the Camden Town Conservation Area, which includes a busy, wide shopping street with a range of buildings from different ages and with a variety of architectural styles. The buildings situated close to the appeal site have been identified by the Council as making a positive to the Conservation Area.
10. The proposed free standing telephone kiosk would have a broadly rectangular form with dimensions of 1.32m by 1.11m and a height of 2.45m. The telephone kiosk would be constructed with a powder coated metal frame and laminated glass. It would have an open side to allow wheelchair access and solar panels would be included at roof level.

11. The proposal would be located near bicycle stands, close to the edge of the footway. Other than these and a number of lampposts, there are no other nearby items of street furniture on the western side of Camden High Street. The addition of this single proposal would not therefore result in unacceptable visual clutter. I note that there is an existing telephone box on the opposite side of the road, but given the width of the carriageway and the separation this creates, I do not find that this would result in an over-proliferation of such structures. Similarly, I was able to see recent public realm improvements that have taken place, but these are also said to be on the opposite side of road by the Council.
12. The size of the kiosk, although somewhat larger than the standard telephone kiosk, would, in the backdrop of 3 and 4 storey buildings, not appear out of scale. The proposal would use metal as part of its construction, but it would have significant elements of glazing which would largely maintain views of surrounding properties. The Council reference the historic facades of the buildings lining the street, but at ground floor level, many of the nearby properties have modern frontages. Given the Conservation Area is characterised by a diverse range of buildings, with varying styles, I do not consider that its significance would be harmed by what would appear as a lightweight structure.
13. The positioning of the kiosk adjacent to an existing telephone box has also been sited as giving rise to safety issues. The nearest telephone box is, however, located on the opposite side of the carriageway. Because of this, and that the proposed kiosk would be largely glazed, it would not unacceptably reduce casual surveillance. Contrary also to the Council's Statement, I do not consider that a 1.32m by 1.11m kiosk would reduce sight lines to the extent that it would be detrimental to sightlines or obscure CCTV. A number of issues have been identified with the design of the kiosk but, in the absence of any substantive evidence of loitering, anti-social behaviour or crime, I consider the open design of the kiosk would not be unduly harmful in these respects.
14. The Council have identified concerns in relation to the wheelchair accessibility of the proposal. They state that the appellant has referenced an older version of the British Standards, and that the kiosk would fail to comply with the current British Standard (BS) 8300, which includes guidance on payphones outside of buildings. I have not been provided with the full details of BS8300 but it has been stated that the proposed telephone controls would not be within the correct height range from the floor (0.75m-1m). Whilst this may be the case, I consider that the height of the telephone controls at 1.5m, would still be within the reach of a wheelchair user. Furthermore, it is not disputed that that the open design of the kiosk would allow for wheelchair access. As such, overall, despite the shortcomings identified, I consider that the siting and appearance of the proposal would not be unduly harmful in this respect.
15. The reduction in the 'clear footway' arising from the proposal has also been identified as a concern. There is a difference between the Appellant and the Council on the width of the footway where the appeal site is located. From the information available before me, and my site observations, the width of the footway would appear to be wider than the Council's stated 3.4m, and closer to around 6.9m. Based on this, and taking into account the high pedestrian flows and the location close to a nightclub and takeaways, the proposal would exceed the minimum clear footway standard set out in the Council's Streetscape

Design Manual of 3m. It would also exceed the Transport for London's Pedestrian Comfort Guidance For London, which sets out a 5.3m overall footway width (in high flow locations). The siting of the proposed telephone box would be in that part of the footway where there is little pedestrian movement, due to the presence of other existing street furniture in that section close to the carriageway. Given the dimensions of the telephone box, there would still be a sufficient gap on either side to allow the transfer of goods and also pedestrian movements to take place. The improvements that have taken place to the public realm to improve pedestrian comfort, are also on the opposite side of Camden High Street. Consequently, there would not be any hindrance to pedestrian movements or a detrimental impact by way of overcrowding.

16. I therefore conclude, that the proposed kiosk with respect to its siting and appearance, would not harm the character and appearance of the area, preserve the character and appearance of the Camden Town Conservation Area, and would not harm highway and pedestrian safety, which justifies the grant of prior approval.

### **Conditions**

17. The grant of prior approval for the kiosk would be subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO. Those conditions include an implementation timescale, accordance with the details submitted and removal of the structure/apparatus when no longer required for electronic telecommunications purposes.

### **Conclusion**

18. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed and prior approval granted subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

*F Rafiq*

INSPECTOR